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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant : Rodney Daughtrey
Serial No. : 09/812,224
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Title : FARE RULES SUMMARIZER FOR TRAVEL PLANNING

Art Unit : 3639
Examiner : Thomas Dixon

Mail Stop Appeal Brief - Patents

Commissioner for Patents
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APPEAL BRIEF ON BEHALF OF RODNEY DAUGHTREY

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(i.) Real Party In Interest

The real party in interest in the above application is ITA Software, Inc.

(ii.) Related Appeals and Interferences

The appellant is not aware of any appeals or interferences related to the above-identified patent application.

(iii.) Status of Claims

This is an appeal from the decision of the Primary Examiner in an Office Action dated May 16, 2006, rejecting claims 1-39, all of the claims of the above application. The claims have been twice rejected. Claims 1-39 are the subject of this appeal.

In claim 31, the article "The" was inadvertently omitted from claim 31. This will be corrected by a post decision amendment.

(iv.) Status of Amendments

All amendments have been entered. Appellant filed a Notice of Appeal on **October 6, 2005** and filed an Appeal Brief on February 7, 2006. The examiner responded with an Office Action dated May 16, 2006, from which Appellant appeals from.

(v.) Summary of Claimed Subject Matter

Claim 1

One aspect of Appellant's invention is set out in claim 1, as a user interface for a fare rule summary tool. "FIG. 3 is a diagram depicting a graphical user interface for returned fares and rule summaries." [Appellant's specification page 2, lines 28-29] the user interface is displayed on a monitor. "The system 10 also includes a plurality of clients 30a-30c implemented by terminals or, preferably, personal computers." [Appellant's specification page 4, lines 7-9]. "The fare summary is displayed on a display output device." [Appellant's specification page 2, line 5].

FIG. 3 is depicted below:

FIG. 3

“The fare rule summary table 86 is a two-dimensional grid with the fares 88 being rows of the table. Columns of the fare rule summary table 86 include fare price 92 and rule summaries for each category 93 for which the fare has rules or restrictions. The fare rule summary table 86 also includes columns for combinability codes 98. Combinability codes 98

represent legal combinations for fares in one slice with fares in another slice. The combinability codes 98 are listed in a last set of columns of the fare rule summary table. The combinability codes 98 are assigned by the fare rule summary tool 17 and are expressed as letters of the alphabet." [Appellant's specification page 7, lines 16-26].

Claim 15

Claim 15 claims another aspect of the invention. Claim 15 is a method for producing a concise summary of fare rules and restrictions that the fare rules place on fares. "Referring now to FIG. 4, a fare summarizer process 100 to produce information for the fare rule summary table is shown." [Appellant's specification page 7, lines 27-28].

Inventive features of claim 15 include parsing a set of queries to provide at least one city pair corresponding to an origin and a destination of a flight slice. "The fare summarizer process 100 receives 102 a query from the user through the query section of the user interface. The query is parsed (not shown) and information in the query is used to retrieve 104 some or all of the fares for city pairs, i.e., origins and destinations that were specified by the user, over a particular time window." [Appellant's specification page 7, line 29 to page 8, line 3].

Inventive features of claim 15 also include retrieving fares and fare rules for each city pair over a time period set in the query. "The fare summarizer process 100 retrieves all of the fares for each faring market as identified by the city pairs and the departure or arrival time windows for those city pairs from the ATPCO database 20a. Fares have effective or discontinued dates and so forth, which determine whether or not the fares are applicable for the departure or arrival time windows specified in the user query. Fares that are not in the effective and discontinued date range are screened out." [Appellant's specification page 8, lines 3-11].

Inventive features of claim 15 also include evaluating the retrieved fares against the retrieved rules and returning a status corresponding to pass, fail, or defer. "The fare summarizer process 100 also determines 105 whether or not a particular fare passes or fails each rule category. The techniques used in the above mentioned application can be used for rule evaluation. The fare summarizer process 100 evaluates the fare for each rule category. The fare summarizer process applies the rule categories to each fare. The fare summarizer process 100 returns one of three values for each category for a fare. Either the fare "passes" that category

meaning that the fare can be used in a pricing solution, the fare "fails" that category meaning that the fare can not be used in the pricing solution, or evaluation of that fare must be "deferred." Deferred indicates that there is not sufficient information at that point in the fare summarizer process 100 to determine whether or not the fare can be used in a pricing solution. A defer result is most likely to occur when the fare rule has a restriction that can only be evaluated at a priceable unit level or higher level." [Appellant's specification page 8, line 12-28].

Inventive features of claim 15 also include producing a summary of the results of evaluating the rules for a fare against the criteria specified in the query; and displaying the summary on a user output device. "The fare summarizer process 100 summarized 106 the results of the fare search and associated rule evaluation for each rule category. For a particular fare, there are summaries at four different levels. The first level is the summaries for all of the categories for which there are rules for that particular fare." [Appellant's specification page 8, line 29 to page 9, line 3].

Claim 19

Another aspect of the invention is covered by original claim 19. Claim 19, as originally filed, was for a computer program product residing on a computer readable medium for producing a fare rule summary. [Appellant's specification page 19].

Inventive features include instructions to populate a summary table of fares and corresponding evaluations for each fare rule category. "Columns of the fare rule summary table 86 include fare price 92 and rule summaries for each category 93 for which the fare has rules or restrictions." [Appellant's specification page 7, lines 17-20].

Claim 19 also calls for instructions to render the summary table on an output device. "The fare summary is displayed on a display output device." [Appellant's specification page 2, line 5].

Claim 28

Another aspect of the invention is covered by claim 28. Claim 28 is directed to a method for providing a fare rule summary tool as a user interface for display on a monitor. This feature is generally supported for analogous reasons as those given in claim 15.

Features of claim 28 include rendering on the monitor a fare evaluation result table that shows fare rule summaries for fares in slices of an itinerary, the fare evaluation result table having a first one of rows and columns representing fares and a second one of rows and columns representing the fare rule summaries. These features are supported at least by the analogous features of claim 1.

Claim 36

Another aspect of the invention is covered by claim 36. Claim 36 is directed to a computer program product residing on a computer readable medium for producing a concise summary of fare rules and restrictions that the fare rules place on fares. This feature is supported at least by the analogous features of claim 19.

Inventive features of claim 36 include instructions to parse a set of queries, retrieve fares and fare rules for each city pair over a time and evaluate the retrieved fares against the retrieved rules and returning a status corresponding to pass, fail, or defer; and produce a summary of the results of evaluating the rules, the summary indicating the status of the rules for each category of rules; and display the summary on a user output device. These features are supported at least by the analogous features of claim 15.

(vi.) Grounds of Rejection to be Reviewed on Appeal

(1) Claims 1-14 stand rejected under 35 U.S.C. 101 as directed to non-statutory subject matter.

(2) Claims 1-4, 6, 8-9, 12-17 and 19-38 stand rejected under 35 U.S.C. 102(b) as anticipated by Tanner (WO 01159590).

(3) Claims 18, 21 and 39 stand rejected under 35 U.S.C. 103(a) as unpatentable over Tanner (WO 01 159590) in view of Kirk (5,768,578).

(vii.) Argument

Anticipation

"It is well settled that anticipation under 35 U.S.C. §102 requires the presence in a single reference of all of the elements of a claimed invention." *Ex parte Chopra*, 229 U.S.P.Q. 230, 231 (BPA&I 1985) and cases cited.

"Anticipation requires the presence in a single prior art disclosure of all elements of a claimed invention arranged as in the claim." *Connell v. Sears, Roebuck & Co.*, 220 U.S.P.Q. 193, 198 (Fed. Cir. 1983).

"This court has repeatedly stated that the defense of lack of novelty (i.e., 'anticipation') can only be established by a single prior art reference which discloses each and every element of the claimed invention." *Structural Rubber Prod. Co. v. Park Rubber Co.*, 223 U.S.P.Q. 1264, 1270 (Fed. Cir. 1984), citing five prior Federal Circuit decisions since 1983 including *Connell*.

In a later analogous case the Court of Appeals for the Federal Circuit again applied this rule in reversing a denial of a motion for judgment n.o.v. after a jury finding that claims were anticipated. *Jamesbury Corp. v. Litton Industrial Prod., Inc.*, 225 U.S.P.Q. 253 (Fed. Cir. 1985).

After quoting from *Connell*, "Anticipation requires the presence in a single prior art disclosure of all elements of a claimed invention arranged as in the claim," 225 U.S.P.Q. at 256, the court observed that the patentee accomplished a constant tight contact in a ball valve by a lip on the seal or ring which interferes with the placement of the ball. The lip protruded into the area where the ball will be placed and was thus deflected after the ball was assembled into the valve. Because of this constant pressure, the patented valve was described as providing a particularly good seal when regulating a low pressure stream. The court quoted with approval from a 1967 Court of Claims decision adopting the opinion of then Commissioner and later Judge Donald E. Lane:

[T]he term "engaging the ball" recited in claims 7 and 8 means that the lip contacts the ball with sufficient force to provide a fluid tight seal ***** The Saunders flange or lip only sealingly engages the ball 1 on the upstream side when the fluid pressure forces the lip against the ball and never sealingly engages the ball on the downstream side because

there is no fluid pressure there to force the lip against the ball. The Saunders sealing ring provides a compression type of seal which depends upon the ball pressing into the material of the ring. *** The seal of Saunders depends primarily on the contact between the ball and the body of the sealing ring, and the flange or lip sealingly contacts the ball on the upstream side when the fluid pressure increases. 225 U.S.P.Q. at 258.

Relying on *Jamesbury*, the ITC said, "Anticipation requires looking at a reference, and comparing the disclosure of the reference with the claims of the patent in suit. A claimed device is anticipated if a single prior art reference discloses all the elements of the claimed invention as arranged in the claim." *In re Certain Floppy Disk Drives and Components Thereof*, 227 U.S.P.Q. 982, 985 (U.S. ITC 1985).

Obviousness

"It is well established that the burden is on the PTO to establish a prima facie showing of obviousness, *In re Fritsch*, 972 F.2d 1260, 23 U.S.P.Q.2d 1780 (C.C.P.A., 1972)."

"It is well established that there must be some logical reason apparent from the evidence or record to justify combination or modification of references. *In re Regal*, 526 F.2d 1399 188, U.S.P.Q.2d 136 (C.C.P.A. 1975). In addition, even if all of the elements of claims are disclosed in various prior art references, the claimed invention taken as a whole cannot be said to be obvious without some reason given in the prior art why one of ordinary skill in the art would have been prompted to combine the teachings of the references to arrive at the claimed invention. *Id.* Even if the cited references show the various elements suggested by the Examiner in order to support a conclusion that it would have been obvious to combine the cited references, the references must either expressly or impliedly suggest the claimed combination or the Examiner must present a convincing line of reasoning as to why one skilled in the art would have found the claimed invention obvious in light of the teachings of the references. *Ex Parte Clapp*, 227 U.S.P.Q.2d 972, 973 (Board. Pat. App. & Inf. 985)."

"The mere fact that the prior art could be so modified would not have made the modification obvious unless the prior art suggested the desirability of the modification." *In re Gordon*, 221 U.S.P.Q. 1125, 1127 (Fed. Cir. 1984).

Although the Commissioner suggests that [the structure in the primary prior art reference] could readily be modified to form the [claimed] structure, "[t]he mere fact that the prior art could be so modified would not have made the modification obvious unless the prior art suggested the desirability of the modification." *In re Laskowski*, 10 U.S.P.Q. 2d 1397, 1398 (Fed. Cir. 1989).

"The claimed invention must be considered as a whole, and the question is whether there is something in the prior art as a whole to suggest the desirability, and thus the obviousness, of making the combination." *Lindemann Maschinenfabrik GMBH v. American Hoist & Derrick*, 221 U.S.P.Q. 481, 488 (Fed. Cir. 1984).

Obviousness cannot be established by combining the teachings of the prior art to produce the claimed invention, absent some teaching or suggestion supporting the combination. Under Section 103, teachings of references can be combined only if there is some suggestion or incentive to do so. *ACS Hospital Systems, Inc. v. Montefiore Hospital*, 221 U.S.P.Q. 929, 933 (Fed. Cir. 1984) (emphasis in original, footnotes omitted).

"The critical inquiry is whether 'there is something in the prior art as a whole to suggest the desirability, and thus the obviousness, of making the combination.'" *Fromson v. Advance Offset Plate, Inc.*, 225 U.S.P.Q. 26, 31 (Fed. Cir. 1985).

(1) Claims 1-14 claim statutory subject matter within the meaning of 35 U.S.C. 101.

Claim 1

Claim 1 calls for a user interface for a fare rule summary tool displayed on a monitor. Claim 1 includes a fare evaluation result table that displays fare rule summaries for fares in slices of an itinerary, the fare evaluation result table having a first one of rows and columns representing fares and a second one of rows and columns representing the fare rule summaries.

The examiner contends with respect to claim 1, that: "The claims are drawn to an interface and the interface is not seen as being a proper statutory class." [Examiner's Action August 16, 2006, page 2]. Appellant contends that the subject matter of claim 1 is patentable

subject matter within the meaning of 35 U.S.C. §101 the claims are not drawn to an interface per se as a statutory class but rather are drawn to an article of manufacture, namely an interface displayed on a monitor.

The Federal Circuit, in *State Street Bank & Trust Co. v. Signature Financial Group Inc.*, 149 F. 3d 1368, 1374, 47 USPQ2d 1596, 1601-02 (Fed. Cir. 1998), stated:

After Diehr and Chakrabarty, the Freeman-Walter-Abele test has little, if any, applicability to determining the presence of statutory subject matter. As we pointed out in Alappat, 33 F.3d at 1543, 31 USPQ2d at 1557, application of the test could be misleading, because a process, machine, manufacture, or composition of matter employing a law of nature, natural phenomenon, or abstract idea is patentable subject matter even though a law of nature, natural phenomenon, or abstract idea would not, by itself, be entitled to such protection.⁽⁶⁾ The test determines the presence of, for example, an algorithm. Under Benson, this may have been a sufficient indicium of nonstatutory subject matter. However, after Diehr and Alappat, the mere fact that a claimed invention involves inputting numbers, calculating numbers, outputting numbers, and storing numbers, in and of itself, would not render it nonstatutory subject matter, unless, of course, its operation does not produce a "useful, concrete and tangible result." Alappat, 33 F.3d at 1544, 31 USPQ2d at 1557. ⁽⁷⁾ (Footnotes omitted.)

It is also undeniable that The Federal Circuit in *State Street Bank & Trust Co.* repudiated the "Freeman-Walter-Abele test" in view of the Supreme Courts later decisions in *Diehr*¹ and *Chakrabarty*².

Claim 1 by reciting a user interface ... displayed on a monitor is not merely directed to an abstract idea or law of nature or mere compilation of data, but instead is directed to a useful, tangible and concrete result an interface displayed on a monitor. The operation of the interface produces a useful result, concrete and tangible result, namely, a fare evaluation result table that displays fare rule summaries for fares in slices of an itinerary, while organizing the data such that fares and fare rule summaries can be quickly evaluated by a user.

¹ *Diamond v. Diehr*, 450 U.S. 175 (1981).

² *Diamond v. Chakrabarty*, 447 U.S. 303 (1980).

Accordingly, in view of these binding precedents, the examiner is in error and should be reversed.

(2) Claims 1-4, 6, 8-9, 12-17 and 19-38 are not anticipated by Tanner.

Tanner is a Non-Enabling Disclosure

Pictures and drawings may be sufficiently enabling to put the public in the possession of the article pictured. Therefore, such an enabling picture may be used to reject claims to the article. "However, the picture must show all the claimed structural features and how they are put together." *Jockmus v. Leviton*, 28 F.2d 812 (2d Cir. 1928). See M.P.E.P. 2121.04 (Rev 3 August 2005). "The disclosure in an assertedly anticipating reference must provide an enabling disclosure of the desired subject matter; mere naming or description of the subject matter is insufficient, if it cannot be produced without undue experimentation." *Elan Pharm., Inc. v. Mayo Foundation for Medical and Education Research*, 346 F.3d 1051, 1054, 68 USPQ2d 1373, 1376 (Fed. Cir. 2003).

Appellant contends that Tanner does not provide a written description of the claimed subject matter and in the disclosure does not provide a suitable description to enable a person of ordinary skill in the art to make and use the subject matter of the claims. The extent of the description in Tanner with respect to the figures disclosed by Tanner is set forth below:

Brief Description of the Drawings

FIG. 1 is an example of an opening travel input screen.

FIG. 2 is an example of travel input criteria inputted.

FIG. 3 is an example of an availability screen from the travel search.

FIGS. 4A and 4B, when joined at match line A-A, is an example of a selected flight's rules screen.

FIGS. 5A and 5B, when joined at match line A-A, is an example of a selected flight's segments screen.

FIGS. 6A and 6B, when joined at match line A-A, is an example of a selected flight's booking screen.

FIGS. 7A and 7B, when joined at match line A-A, show a first screen illustrating an example of a confirmation screen.

FIGS. 7C and 7D, when joined at match line A-A, show a second screen illustrating an example of a confirmation screen.

FIG. 8 is an example of a net fare contract management system.

Figures 1-7 illustrate an example of a system according to the present invention for searching and booking an airline flight. The system may have a password for travel agent or traveler protection. As shown in Figure 1 a travel agent, after logging into the system, views an opening screen. The opening screen has fields for Departure, Destination, date and time,

airline, number of passengers, one way or roundtrip, and a toggle for stopovers and open jaw city.

A travel agent then inputs the travel criteria as illustrated in Figure 2. Once the information is entered, the system of the present invention searches and sorts available flights based on the inputted travel criteria, as illustrated in Figure 3. The flights are displayed by departure, destination, fare, approximate tax, total, airline, via gateway, and availability. The system lists specific rules for each selected flight as shown in Figure 4. Once a flight is chosen, the program lists specific flight information for the selected flight as shown in Figure 5. The program then gives the travel agent the option to book the flight. At this time the travel agent can also book the flight to confirm the reservation. If the ticketing is done through a third party travel agent, credit is given to the agent booking the flight at this time. Once the flight is booked, the travel agent can then pay for the flight. Figure 6 illustrates the initiation of a booking. The travel agent will receive a confirmation number and specific contract details as shown in Figure 7. Figure 8 illustrates a separate contract management system that allows an agent or wholesaler to maintain their specific net fare airline contracts and their attendant restrictions and conditions.

Thus, while Tanner may be enabling for the subject matter that Tanner sought to claim, it is clear that Tanner is devoid of any teachings of: "a fare evaluation result table ... having a first one of rows and columns representing fares and a second one of rows and columns representing the fare rule summaries." Indeed, while it would be within the skill of one of ordinary skill in this art to devise a user interface and a table, Appellant contends that the claimed fare rule summary table and processing to populate the claimed fare rules summary table with fares and fare rule summaries are neither described nor inherent nor suggested by the limited teachings or the figures provided by Tanner.

While Tanner includes other discussion regarding background art, and description of PNR's and discussions of claimed subject matter; it is the figures that the examiner principally relies on to teach features of Appellant's claims. One of ordinary skill in this art would not derive from either the figures of Tanner or the short description of those figures (as set out above) or any other portion of Tanner, any of the novel features of Appellant's claims.

Thus, since Tanner does not describe any of the features that the examiner relies on in the drawings, the examiner is limited to what is depicted in the figures. However, those figures do not show any of claimed features, nor show the claimed features in a manner that would enable one of ordinary skill in the art to make Appellant's claimed invention. Therefore, since the figures and the specification both fail to support the contentions of the examiner, it is submitted that Tanner neither provides a written description nor provides an enabling disclosure for the purpose of rejection of Appellant's claims and is therefore an improper reference with respect to these claims.

Background

Pricing of and combining airline fares to cover a traveler's itinerary requires checking to see if the fares of interest can be legally used, based on whether the rules associated with the fares allow them to be used for a particular itinerary. Fares and their associated rules are published by airlines and resellers, typically provided through an intermediary, such as "The Airline Tariff Publishing Company (ATPCO)." Travel agents have computer-based tools that can be used to display the rules and restrictions for a particular fare. However, such tools are limited. For example, the tools are text-based and do not effectively convey information. For example, they often use cryptic text that can take a long time to understand and read through. Often such tools require an agent to navigate through several different interfaces. [Specification page 1, lines 4-18].

Claims 1, 3, 12-14, 28, 30

For the purposes of this appeal only, claims 1, 3, 12-14, 28, 30 stand or fall together. Claim 1 is representative of this group of claims.

Claim 1 is directed to a user interface for a fare rule summary tool. Claim 1 includes the feature of ... a fare evaluation result table that displays fare rule summaries for fares in slices of an itinerary, the fare evaluation result table having a first one of rows and columns representing fares and a second one of rows and columns representing the fare rule summaries.

Tanner neither describes nor suggests claim 1. The examiner contends that Tanner (590) discloses:

a fare evaluation result table that displays fare rule summaries for fares in slices of an itinerary, the fare evaluation table having a first one of rows and columns representing fares (Base Fare) and a second one of rows and columns representing the fare rule summaries, see figure 4B (Fare basis) and 8A (Fare basis).

In the Brief Description of the Drawings Tanner describes Fig. 4B (along with Fig. 4A) as a selected flight's rules screen. Tanner does not describe Fig. 4B in the description, but describes: "The system lists specific rules for each flight as shown in Fig. 4." This teaching does not describe the feature of claim 1 "fare rule summaries for fares in slices of an itinerary." Claim 1 is not specifically directed to display of specific rules, (although they need not be excluded), but is directed to the display of fare rule summaries. As Tanner does not have a Fig. 4, Fig. 4B (relied on by the examiner) is reproduced below.

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Returning in: days

Airline:

☐ DW ☐ STOPOVER ☐ OPENJAW

From: Dallas/Fort Worth Int Apt., TX
To: Frankfurt International Apt

feeder/ interline	airline	connect cities	bk	cls
	NW	AMS		H

B	S	M	T	W	T	F	S	W	End	Sup
OB	W					W	W		20	
IB	W					W	W		20	

Seasonality: 01Apr00 - 13Jun00

Passg	Fare basis	Base	Min.	Max.
Type	Out	In	Fare	stay
Adult: QBNRHX	QBNRHX	\$618	S	90

CC Accepted: Y
ICC Surcharge: 0
Stopover: N
Car/Land: N

Advance Purch.: 0
Open Return: N
FF Miles: Y
Ticketby: 13Jun00

FD Surcharge: \$0
Navcan: 0
Open Jaw: Y

As can easily be seen in Fig. 4B, Tanner does not depict a fare evaluation result table that displays fare rule summaries for fares in slices of an itinerary, the fare evaluation result table having a first one of rows and columns representing fares and a second one of rows and columns representing the fare rule summaries.

As for Fig. 8A that figure is described by Tanner as an example of a net fare contract management system. Figure 8A also fails to describe the feature of claim 1. Fig. 8A merely

depicts "a separate contract management system that allows an agent or wholesaler to maintain their specific net fare airline contracts and their attendant restrictions and conditions."

In other words, Figure 8A (reproduced below) depicts results of execution of a user query for air travel. However, this does not depict the claimed "fare evaluation result table ... having a first one of rows and columns representing fares and a second one of rows and columns representing the fare rule summaries."

Contract

Jetset - Microsoft Internet Explorer

G.W. Dest AI ValidFrom ValidTo Cls Other

LAX [] [] [] [] [] []

SortBy:

G.W.: [] Dest: [] AI: [] Active Data: [] Exp Dat: []

F.B.: [] Net: [] Cls: [] Active: [] Archive: []

Sel	G.W.	Dest	Airline	ValidFrom	ValidTo	FareBasis	Net	Sell	Pub	TicketBy	BkClass
<input type="checkbox"/> 21	LAX	AAN	MS	20000401	20000528	Y(L/K/H) AP2M	\$1050.00	\$1250.00	\$1450	20000528	Y
<input type="checkbox"/> 22	LAX	AAN	MS	20000529	20000614	Y(L/K/H) AP2M	\$1055.00	\$1255.00	\$1455	20000614	Y
<input type="checkbox"/> 23	LAX	AAQ	DL	19991225	20000331	HLXBT	\$853	\$853	\$853	20000331	H
<input checked="" type="checkbox"/> 24	LAX	AAQ	DL	19991225	20000331	SLXBT	\$753	\$753	\$753	20000331	S
<input type="checkbox"/> 25	LAX	AAQ	OS	19991225	20000331	NULL	\$853	\$853	\$853	20000331	H
<input type="checkbox"/> 26	LAX	AAQ	OS	19991225	20000331	NULL	\$753	\$753	\$753	20000331	K
<input type="checkbox"/> 27	LAX	ABJ	BA	19991203	20000331	NULL	\$1115	\$1115	\$1115	19991231	Q
<input type="checkbox"/> 28	LAX	ABJ	BA	20000112	20000331	KQAN9	\$1295	\$1295	\$1295	20000331	Q

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PC171891/00112

A ----- A

FIG. 8A

Neither of these figures whether individually or collectively, describes the features of claim 1. Since neither Fig. 4B nor Fig. 8A, collectively or individually nor elsewhere in Tanner describe the claimed fare evaluation result table ... having a first one of rows and columns representing fares and a second one of rows and columns representing the fare rule summaries, the claim is not anticipated by Tanner, because Tanner fails to disclose all elements of the interface arranged as in the claim. See *Connell v. Sears, Roebuck & Co.*, 220 U.S.P.Q. 193, 198 (Fed. Cir. 1983). Moreover, neither Fig 4B nor Fig 8A and its associated description is sufficiently enabling to put the public in the possession of the features of claim 1. Therefore, Tanner is an improper reference to use to reject claim 1. *Jockmus v. Leviton*, 28 F.2d 812 (2d Cir. 1928).

Claims 2 and 29

For the purposes of this appeal only, claims 2 and 29 stand or fall together. Claim 2 is representative of this group of claims.

Claim 2 is distinct over Tanner since Tanner neither describes nor suggests that: "rows of the fare evaluation result table represent fares and columns represent the rule summaries." The examiner contends that: "Tanner (590) further discloses the table is comprised of rows that represent fares, see figure 3, Adult, Approx. Tax, Total and columns that represent rule summaries, see rules."

Appellant disagrees. Tanner does not disclose rule summaries by the column "rules" depicted in Figure 3. Indeed, the column "rules" appears to depict a radio button that could launch the window in Figure 4B. However, as discussed above, Figure 4B does not depict summary of rules. Claim 2 requires "rows of the fare evaluation result table represent fares," (Tanner shows a price, but the row in Figure 3 does not represent a fare, but instead represents a travel option) and "columns represent the rule summaries," which is neither shown in Tanner's figures nor described by Tanner in the specification.

Claims 4 and 31

For the purposes of this appeal only, claims 4 and 31 stand or fall together. Claim 4 is representative of this group of claims.

Claim 4 limits claim 2 to require that at least one of the columns represents fare combinability restrictions. As Appellant disclosed in the specification at page 7, line 21:

Combinality codes 98 represent legal combinations for fares in one slice with fares in another slice. The combinability codes 98 are listed in a last set of columns of the fare rule summary table. The combinability codes 98 are assigned by the fare rule summary tool 17 and are expressed as letters of the alphabet.

The examiner contends that: "Tanner (590) further discloses the columns represent fare combinability restrictions, see figure 4B and 8A, QBNRH X in which Q represents "controlled", R

represents "Round-trip No Restrictions", X represents "weekday" (according to the FAREDEX Translation Table of columns 10 and 11 of Whitesage ('523))."

Tanner does not describe what "QBNRHX" is; Tanner never mentions it in the specification, and only depicts it in Figure 4B (Appellant does not see it in Figure 8A, as contended by the examiner) adjacent to the price of a fare. However, Tanner describes it in Figure 4 B as a fare basis, but does not describe it as a fare combinability restriction. Appellant contends that it is a booking code.

The examiner uses Whitesage to explain it. Appellant has reproduced the FAREDEX codes from Whitesage, below:

55	FAREDEX TRANSLATION TABLE					
	CATEGORY	FARE-TYPE	FARE BASIS EXAMPLES	FAREDEX CODE	11	5,191,
	Full Fare	First Class	F, Y	First	-continued	
		Business Class	C, J	Business		
60		Coach	V, Y9, Y29	Coach	FAREDEX TRANSLATION TABLE	
	Negotiated	Government	DG	NGov		
	Fares	Military	MM	NMil	CATEGORY	FARE-TYPE
	Round Trip	No Restrictions	R	RT	FARE BASIS EXAMPLES	FAREDEX CODE
		Excursion	E	RTR	Weekend	W
		3-30 Day	A, AP	AP (3-30)	Peak	PEAK, PK, H
65	Advance	Advance			Off-Peak	DOFF, L
	Purchase	Airport	JFK, DCA, IAD	DAIR	Controlled	M, Q, H, Z
	Restricted	Passenger	VUSA	DPAX		
	Discounts	Flight	FLT	DFLT		
		Weekday	X	DDAY		

In order for the examiner to properly combine Whitesage with Tanner, the examiner needs to show that Tanner subscribes to the "Prism Group Fare Dex" codes, described in Whitesage. Otherwise, the examiner's argument regarding translation of "QBNRHX" has no meaning. This the examiner has not done.

Moreover, while Whitesage discloses FAREDEX and assuming that a translation of "QBNRHX" could in fact be as described by the examiner, (which Appellant does not concede) "QBNRHX" as shown in Tanner does not meet the claim limitation of: "least one of the columns represents fare combinability restrictions." Indeed, even if "QBNRHX" is a fare combinability restriction, it is a restriction only on the depicted fare, it is not one of the columns represents fare combinability restrictions on a set of fares, as required by claim 4.

Claims 5 and 32

For the purposes of this appeal only, claims 5 and 32 stand or fall together. Claim 5 is representative of this group of claims.

Claim 5 limits claim 1, and requires that the fare evaluation result table has the fare rules organized into categories of fare rules, and cells of the fare evaluation result table contain a status that would correspond to pass, fail, or defer for the fares.

The examiner contends that: "Tanner (590) further discloses the categories pass or fail, see figure 3, AvL column."

Appellant contends that: Tanner does not disclose either that the fare evaluation result table has the fare rules organized into categories of fare rules or that the fare evaluation result table depicts whether or not the categories have a status of pass, fail, or defer for the fares. The examiner indicates that "AvL" discloses status. However, AvL refers to available net fares (Tanner p. 10) not status of whether fares pass particular rules.

Claims 6, 7 and 33

For the purposes of this appeal only, claims 6, 7 and 33 stand or fall together. Claim 6 is representative of this group of claims.

Claim 6 requires that: "pass, fail, or defer results are represented by unique visual indications." The examiner contends that: "Tanner (590) further discloses unique visual indicators, see figure 3."

The examiner again relies on a figure, namely Fig. 3, but the examiner does not point out where or what in Tanner shows or describes any unique visual indications in Fig. 3. Tanner neither describes nor suggests displaying whether the rules pass, fail, or defer, and therefore, Claims 6 and 7, which require unique visual indications to indicate the foregoing status of the fares for the particular rules, are not suggested by Tanner.

Claims 8-11 and 34, 35

For the purposes of this appeal only, claims 8-11 and 34, 35 stand or fall together. Claim 8 is representative of this group of claims.

Claim 8 limits claim 1, and requires that the fare evaluation result table depicts statuses of the summaries. The examiner contends that "Tanner (590) further discloses a status of complete (AvL), incomplete (n/a), see figure 3." Appellant contends that this is the same basis that the examiner used to argue that Tanner disclosed fare evaluation statuses of pass, fail, or defer, as

recited in claim 5. However, as with claim 5, AvL does not describe "fare evaluation result table depicts statuses of the summaries" and Tanner in Figure 3 apparently uses "n/a" to indicate that a displayed travel option is not available.

Claims 15, 36

For the purposes of this appeal only, claims 15 and 36 stand or fall together. Claim 15 is representative of this group of claims.

Claim 15 distinguishes over Tanner '590, since the reference neither describes nor suggests "a method for producing a concise summary of fare rules and restrictions that the fare rules place on fares. In particular, claim 15 distinguishes since the reference fails to describe ... evaluating the retrieved fares against the retrieved rules and returning a status corresponding to pass, fail, or defer, and producing a summary of the results of evaluating the rules for a fare against the criteria specified in the query and displaying the summary"

The examiner contends that Tanner '590 discloses ... "evaluating the retrieved fares against the retrieve rules and returning a status corresponding to pass, fail, see figure 4A (AvL); producing a summary of the results of the rules the summary indicating the status of each category of rules, see figure 7B; and displaying the summary on a user output device, see figures 4A-B, 8A."

Fig. 7B does not include any of the recited features of Applicant's claim 15, as set out above. Rather, Fig. 7B merely depicts flights details. According to Tanner, (page 13):

Once the flight is booked, the travel agent can then pay for the flight. Figure 6 illustrates the initiation of a booking. The travel agent will receive a confirmation number and specific contract details as shown in Figure 7. Figure 8 illustrates a separate contract management system that allows an agent or wholesaler to maintain their specific net fare airline contracts and their attendant restrictions and conditions.

According to Tanner, Fig. 7 shows contract details of a flight that was booked according to Figure 6. The examiner contends that Fig. 3 shows a status corresponding to pass, fail, or defer as "(Avl)." However, Tanner describes Fig. 3 differently. According to Tanner, (Page 13):

Once the information is entered, the system of the present invention searches and sorts available flights based on the inputted travel criteria, as illustrated in Figure 3.

The flights are displayed by departure, destination, fare, approximate tax, total, airline, via gateway, and availability.

The feature "AvL" is not the status of the evaluation of the rule as in claim 15, but whether a particular fare is available. Clearly, Tanner, on page 13 and in Fig. 3 is referring to flight availability, not status of rule evaluations for fares. Indeed, Tanner does not disclose any process to evaluate the fare rules and simply lists fare rules for each flight in Figure 4 (See Tanner page 13. Note Tanner does not have a Figure 4 and apparently is referring to Figure 4B). Appellant contends that since Tanner fails to describe any evaluation of fare rules that Tanner inherently cannot teach the features of claim 15.

Tanner does not describe or define the term "AvL" that appears in Fig.3, but one of ordinary skill in the art would presume AvL to mean "availability," not "evaluating the retrieved fares against the retrieved rules and returning a status corresponding to pass, fail, or defer." This follows because Tanner describes Fig. 3 as displaying flights according to: "departure, destination, fare, approximate tax, total, airline, via gateway, and availability."

Therefore, Figure 3 neither describes nor suggests the invention, nor is Figure 3 sufficiently enabling to put the public in the possession of the features of claim 15 and Tanner is an improper reference to use to reject claim 15. *Jockmus v. Leviton*, 28 F.2d 812 (2d Cir. 1928). Accordingly, claim 15 is distinct over Tanner, since Tanner is not a proper reference and since Tanner does not disclose every element of claim 15 arranged as in the claim.

Claims 16 and 37

For the purposes of this appeal only, claims 16 and 37 stand or fall together. Claim 16 is representative of this group of claims.

Claim 16 limits the method of claim 15 to producing including determining whether the summary is complete, likely complete, partially complete or whether the summary is missing information. Tanner does not describe evaluation of fare rules and thus inherently would not describe the summary is complete, likely complete, partially complete or whether the summary is missing information.

Claims 17 and 38

For the purposes of this appeal only, claims 17 and 38 stand or fall together. Claim 17 is representative of this group of claims.

Claim 17 further limits claim 15 and recites representing the summary in a table where rows of the table represent fare rules and columns of the table represent fare rules or categories. The examiner contends that: "Tanner (590) further discloses the table is comprised of rows that represent fares, see figure 3, Adult, Approx. Tax, Total and columns that represent rule summaries, see rules."

Tanner does not anticipate claim 17, because Tanner fails to describe all of the features of claim 17 arranged as in claim 17. Tanner does not provide a written description of the claimed subject matter and in the disclosure does not provide a suitable description to enable a person of ordinary skill in the art to make and use the subject matter of claim 17. Since Figure 3 is not sufficiently enabling to put the public in the possession of this feature of claim 15, Tanner is an improper reference to use to reject claim 17. *Jockmus v. Leviton*, 28 F.2d 812 (2d Cir. 1928).

Figure 3 does not show rows of the table representing fare rules and columns of the table representing fare rules or categories, by "Adult, Approx. Tax, Total and columns that represent rule summaries, see rules," as argued by the examiner. Rather, Tanner describes Figure 3 as: "an example of an availability screen from the travel search." (Tanner page 5).

Claims 19 and 22

For the purposes of this appeal only, claims 19 and 22 stand or fall together. Claim 19 is representative of this group of claims.

Claim 19 is directed to a computer program product ... for producing a fare rule summary. Features of claim 19 include instructions to populate a summary table of fares and corresponding evaluations for each fare rule category, each evaluation having a status

The examiner contends that: "Tanner (590) discloses: populating a summary table of evaluating fare rules and fares with a summary table indicating the status of the rules for each category of rules, see figure 4B and 8A"

As discussed above however, Tanner does not disclose the summary table. Tanner does not disclose evaluations of fare rules and thus does not disclose status of the evaluation.

Claim 20

Claim 20 limits the computer program product of claim 19 to instructions "represent the summary table where rows of the table represent fares, columns of the table represent rules or categories."

The examiner contends that: "Tanner (590) further discloses the table is comprised of rows that represent fares, see figure 3, Adult, Approx. Tax, Total and columns that represent rule summaries, see rules."

Figure 3 of Tanner is reproduced below:

Jetset - Microsoft Internet Explorer

HOME CLEAR

CODE DAY MONTH WEEK TIME

Departure: 17 Jan Mon Any AM Returning in: 1 days SEARCH

Destination: 18 Jan Tues Any AM

Passengers: 1A Airline: All

ADT CHD PT DW STOPOVER OPENJAW

Rules	Dep	Dest	Adult	Approx. Tax	Total	AI	Via	Avl
DFW	FRA	\$503	\$59.8	\$563	US			
DFW	FRA	\$503	\$59.8	\$563	UA			
DFW	FRA	\$570	\$59.8	\$630	US			
DFW	FRA	\$585			DL		n/a	
DFW	FRA	\$618	\$65.8	\$684	NW	AMS		
DFW	FRA	\$668	\$65.8	\$734	NW	AMS		
DFW	FRA	\$670	\$59.8	\$730	US			
DFW	FRA	\$685			DL		n/a	
DFW	FRA	\$713	\$59.8	\$773	LH			
DFW	FRA	\$723	\$59.8	\$783	AA			
DFW	FRA	\$793	\$65.8	\$859	NW	AMS		

PNR CHANGE AVAIL BOOK CITY CAL HELP

FIG. 3

Figure 3 depicts a travel option screen showing itineraries coupled with fares and an indication that the fares pass the rules. It also shows details such as the Adult fare, Approx. Tax, Total fare. The examiner says that it also has "columns that represent rule summaries, see rules." Appellant disagrees. Clearly rules is nothing more than a radio button that launches a window that displays specific rules for that fare in a separate window. However, neither the radio button nor the window launched, is a rule summary. Moreover, the structure of claim 20, namely rows

of the table represent fares, columns of the table represent rules or categories is not met because only one column of Figure 3 can represent rules or categories; whereas, claim 20 requires multiple columns.

Claim 23

Claim 23 limits claim 19 and includes instructions to populate at least one of the columns with fare combinability restrictions is not disclosed by Tanner for analogous reasons as those given in claim 4.

Claims 24 and 25

For the purposes of this appeal only, claims 24 and 25 stand or fall together. Claim 24 is representative of this group of claims. Claims 24 and 25 are allowable for analogous reasons as those given in claim 5.

Claim 26

Claim 26 is allowable for analogous reasons as those given in claim 8.

Claim 27

Claim 27 depends from claim 19 and is allowable for analogous reasons as those given in claim 9, in that Tanner (590) neither describes nor suggests instructions to “indicate whether the status is complete, likely complete, partially complete, or missing information by applying a unique visual indication.” Tanner does not disclose evaluating the status of the rules or categories of rules whether in Figures 4B and 8A or elsewhere.

**(3) Claims 18, 21 and 39 are allowable over
Tanner (WO 01 159590) in view of Kirk
(5,768,578).**

Claim 18

Claims 18, 21 and 39 each add distinctive features to their respective base claims.

Claims 18 and 39 are neither described nor suggested by Tanner taken separately or in combination with Kirk. Claim 18 further limits claim 15 by reciting: “representing the summary in a table where rows of the table represent fares and columns of the table represent rules or

categories, and applying a color to cells of the table with the color scheme signifying whether the cell corresponds to pass, fail, or defer status.” Claim 39 depends from claim 36 and contains analogous limitations.

The examiner acknowledges that “Tanner (590) does not disclose applying a color to cells of the table with the color scheme signifying whether the cell corresponds to pass, fail or defer status,” as in claims 18, 21 and 39. The examiner relies on Kirk to teach this feature.

The examiner contends that:

Kirk ('578) teaches the display of different color, underline or italics in a document with a mixture of text, graphics and hyperlinks, see column 26, lines 47-55 to distinguish the colored portions to attract the user's attention. Therefore, it would have been obvious to one of ordinary skill in the art, at the time the invention was made to distinguish areas in a presented page by different color, underlining, or typeface as taught by Kirk ('578) to distinguish text to attract the user's attention.”

Kirk does not cure the deficiencies of Tanner. Kirk describes display of document as a mixture of text, graphics and hypertext links. The displayed hypertext links have a different appearance (e.g. different color, underline, italics) to distinguish them from the rest of the text in the document. Kirk combined with Tanner fails to suggest “applying a color to cells of the table with the color scheme signifying whether the cell corresponds to pass, fail or defer status,” as in claims 18, 21 and 39. Accordingly, one of ordinary skill in the art would not be motivated to apply colors to the cells to distinguish different statuses, since no motivation exists to modify Tanner to include a table in the first instance, or to distinguish cells in the table for any reason. While Kirk distinguishes hyperlinks from text, Kirk does not suggest distinguishing different hyperlinks. In contrast, claims 18, 21 and 39 apply the color scheme to cells of the table to distinguish cells that pass from cells that fail or have a deferred status.

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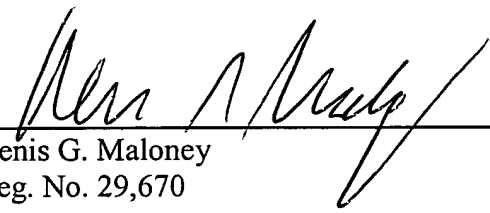
Attorney's Docket No.: 09765-012001

Conclusion

Appellant submits, therefore, that Claims 1-14 are proper under 35 U.S.C. 101 and claims 1-39 are allowable over the cited art. Therefore, the Examiner erred in rejecting Appellant's claims and should be reversed.

Respectfully submitted,

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Appendix of Claims

1. A user interface for a fare rule summary tool, the user interface displayed on a monitor, the user interface comprising:

a fare evaluation result table that displays fare rule summaries for fares in slices of an itinerary, the fare evaluation result table having a first one of rows and columns representing fares and a second one of rows and columns representing the fare rule summaries.

2. The user interface of claim 1 wherein rows of the fare evaluation result table represent fares and columns represent the rule summaries.

3. The user interface of claim 2 wherein one of the columns represents fare price.

4. The user interface of claim 2 wherein at least one of the columns represents fare combinability restrictions.

5. The user interface of claim 1 wherein the fare evaluation result table has the fare rules organized into categories of fare rules, and cells of the fare evaluation result table contain a status that would correspond to pass, fail, or defer for the fares.

6. The user interface of claim 5 wherein pass, fail, or defer results are represented by unique visual indications.

7. The user interface of claim 6 wherein the unique visual indications are rendered in different colors for pass, fail, or defer.

8. The user interface of claim 1 wherein the fare evaluation result table depicts statuses of the summaries.

9. The user interface of claim 8 wherein statuses of the summaries are complete, likely complete, partially complete, or missing information.

10. The user interface of claim 9 wherein statuses of the summaries are represented by a unique visual indication.

11. The user interface of claim 10 wherein the unique visual indication is a change in the typeface that is used to depict the status information.

12. The user interface of claim 1 further comprising a user query region that enables a user to enter information for a set of slices or trip segments.

13. The user interface of claim 12 wherein the user query region includes fields to specify a set of origin cities, a set of destination cities, a time window for departure and arrival for each trip segment.

14. The user interface of claim 12 further comprising fields to enable a user to specify different parameters that control which fares and which airlines are examined.

15. A method for producing a concise summary of fare rules and restrictions that the fare rules place on fares, the method comprising:

parsing a set of queries to provide at least one city pair corresponding to an origin and a destination of a flight slice;

retrieving fares and fare rules for each city pair over a time period set in the query;

evaluating the retrieved fares against the retrieved rules and returning a status corresponding to pass, fail, or defer; and

producing a summary of the results of evaluating the rules for a fare against the criteria specified in the query; and

displaying the summary on a user output device.

16. The method of claim 15 wherein producing further comprises:

determining whether the summary is complete, likely complete, partially complete or whether the summary is missing information.

17. The method of claim 15 wherein producing further comprises:
representing the summary in a table where rows of the table represent fare rules and columns of the table represent fare rules or categories.

18. The method of claim 15 wherein producing further comprises:
representing the summary in a table where rows of the table represent fares and columns of the table represent rules or categories; and
applying a color to cells of the table with the color scheme signifying whether the cell corresponds to pass, fail, or defer status.

19. A computer program product residing on a computer readable medium for producing a fare rule summary comprises instructions for causing the computer to:
populate a summary table of fares and corresponding evaluations for each fare rule category, each evaluation having a status; and
render the summary table on an output device.

20. The computer program product of claim 19 wherein instructions to populate comprise instructions to:
represent the summary table where rows of the table represent fares, columns of the table represent rules or categories.

21. The computer program product of claim 19 wherein instructions to populate comprise instructions to:
apply a color to cells of the table with the color scheme signifying whether the cell corresponds to pass, fail, or defer status.

22. The computer program product of claim 19 wherein instructions to populate comprise instructions to: populate one of the columns of the table with fare price for segments of an itinerary.

23. The computer program product of claim 19 wherein instructions to populate comprise instructions to: populate at least one of the columns with fare combinability restrictions.

24. The computer program product of claim 19 wherein instructions to populate comprise instructions to: populate the summary table with fares and their corresponding evaluations for each fare rule category, and the summary table depicts whether or not the categories have a status of pass, fail, or defer for the fares.

25. The computer program product of claim 24 wherein instructions to populate comprise instructions to: represent pass, fail, or defer results by unique visual indications.

26. The computer program product of claim 19 wherein instructions to populate comprise instructions to: populate the summary table with a status of the summary.

27. The computer program product of claim 26 wherein instructions to populate comprise instructions to: indicate whether the status is complete, likely complete, partially complete, or missing information by applying a unique visual indication.

28. A method for providing a fare rule summary tool as a user interface for display on a monitor, the method comprising:

rendering on the monitor a fare evaluation result table that shows fare rule summaries for fares in slices of an itinerary, the fare evaluation result table having a first one of rows and columns representing fares and a second one of rows and columns representing the fare rule summaries.

29. The method of claim 28 wherein rows of the fare evaluation result table represent fares and columns represent the rule summaries.

30. The method of claim 28 wherein one of the columns represents fare price.

31. method of claim 28 wherein at least one of the columns represents fare combinability restrictions.

32. The method of claim 28 wherein the fare evaluation result table has the fare rules organized into categories of fare rules and the fare evaluation result table depicts whether or not the categories have a status of pass, fail, or defer for each fare.

33. The method of claim 32 wherein pass, fail, or defer result are represented by unique visual indications.

34. The method of claim 28 wherein the fare evaluation result table depicts the status of the summary, with the status of the summary represented by a unique visual indication.

35. The method of claim 34 wherein the status of the summary is whether the status is complete, likely complete, partially complete, or missing information.

36. A computer program product residing on a computer readable medium for producing a concise summary of fare rules and restrictions that the fare rules place on fares comprises instructions for causing a computer to:

parse a set of queries to provide at least one city pair corresponding to an origin and a destination of a flight slice;

retrieve fares and fare rules for each city pair over a time period set in the query;

evaluate the retrieved fares against the retrieved rules and returning a status corresponding to pass, fail, or defer; and

produce a summary of the results of evaluating the rules, the summary indicating the status of the rules for each category of rules; and

display the summary on a user output device.

37. The computer program product of claim 36 wherein instructions to produce further comprises instructions to:

determine whether the summary is complete, likely complete, partially complete or whether the summary is missing information.

38. The computer program product of claim 36 wherein instructions to produce further comprises instructions to:

represent the summary in a table where rows of the table represent fares and columns of the table represent rules or categories.

39. The computer program product of claim 36 wherein instructions to produce further comprises instructions to:

represent the summary in a table where rows of the table represent fares and columns of the table represent rules or categories; and

apply a color to cells of the table with the color scheme signifying whether the cell corresponds to pass, fail, or defer status.

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Evidence Appendix

None

Related Proceedings Appendix

None

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